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IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1967

No. 1073

ELDON O. HALDANE,

Petitioner,

vs.

WILHELMINA HELEN KING CHAGNON;
HORACE N. FREEDMAN;
LEONARD S. SANDS;
GORDON THOMPSON;
WILFRED H. TOMLIN;
ALBERT D. MATTHEWS,

Respondents.

PETITION TO THE UNITED STATES SUPREME COURT FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

ELDON O. HALDANE
601 South Vermont Avenue
Los Angeles, California

Petitioner Pro Se

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Petitioner prays that a Writ of Certiorari issue to review the judgment of the United States Court of Appeals for the Ninth Circuit, entered in the above-entitled case on December 15, 1967.

CITATIONS TO OPINIONS BELOW

The memorandum opinion of the Circuit Court of Appeals is unreported and is printed in Appendix B hereto. Since that dismissal was based on Haldane v. Chagnon, reported in 345 F. 2d 601, said opinion is likewise printed in Appendix C hereto. The initial District Court opinion entered May 12, 1961, is printed in Appendix D hereto.

JURISDICTION

The judgment of the Circuit Court of Appeals was entered on December 15, 1967. The jurisdiction of this Court is invoked under 28 USC §1254 (1). The jurisdiction of the District Court was invoked under 28 USC §§1331 and 1343.

QUESTION PRESENTED

Whether state employee deputy sheriffs, clerks, judges, and private attorneys, acting in concert wholly without jurisdiction of the subject matter, may all claim absolute judicial immunity to seize petitioner at gun point, falsely imprison him, destroy his livelihood and federally guaranteed civil rights.

STATUTES INVOLVED

The statutory provisions involved are 42 USC 1983, Appendix A, infra, p. A-1, 42 USC 1985 (2) (3), Appendix A, infra, p. A-1 - A-3, 42 USC 1988, Appendix A, infra, p. A-3, 18 USC 241, 242, Appendix A, infra, pp. A-4, A-5, and Sections 5041, 5047, 5050 and 5050.3 of the Welfare & Institutions Code of California, Appencix A, infra, pp. A-5 to A-9.

STATEMENT

A purported divorce action was filed against petitioner and vigorously defended as groundless and sham; he was falsely and separately attacked as mentally ill for highly improper purpose (R. 10-15 inclusive) and state judges were consulted by respondents in privacy and secrecy, falsely told that petitioner was violent and dangerous (R. 4, lines 1-32) deputy sheriff Tomlin, who had never seen petitioner, ordered to execute a void "petition" and void "affidavit" to accomplish petitioner's false imprisonment without bail, destruction of his earnings, immolation of home and family (R. 5, 6, 7, 8, 9). R. 10-15 inclusive sets forth the absolutely void "petition," arbitrary order of imprisonment, (R. 11,) medical reports (R. 13, 14) dismissal of mental illness

or insanity charges (R. 15). The fatally defective void "petition" (R. 10-15) is the heart of the case.

CONSTITUTIONAL PROVISIONS INVOLVED

The Constitution provides in part as follows:

FOURTH AMENDMENT

"The right of the people to be secure in their persons . . . against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation ..."

FIFTH AMENDMENT

". . . nor be deprived of life, liberty, or property, without due process of law..."

SIXTH AMENDMENT

". . . to be confronted with the witnesses against him ..."

EIGHTH AMENDMENT

"Excessive bail shall not be required."

FOURTEENTH AMENDMENT

"No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."

REASONS FOR GRANTING WRIT

The decisions of the court below in the instant case and in Haldane v. Chagnon, 345 F. 2d 601 (1965) (Appendix B and C infra) are directly and irreconcilably in conflict with Baxstrom v. Herold, 383 US 107, 111 (1966), Bradley v. Fisher, 13 Wall. (80 US) 335, 351-352 (1871), Jillson v. Caprio, 181 F. 2d 523 (D.C. App.), Manning v. Ketcham, 58 F. 2d 948 (6 Cir.), Maben v. Rankin, 55 Cal. 2d 139, In re Raner, 59 Cal. 2d 635, 639, and Warner v. New York, 297 NY 395. The void "petition" (R. 10-15 inclusive) although alleged to be civil in form is in its nature criminal and punitive, can when successful result in life imprisonment. Section 5047 Welfare & Institutions Code (Appendix A infra, p. A-5) requires verification and it is distinctly alleged that Tomlin had never seen petitioner in his entire life, knew nothing about petitioner (R. 3, lines 1-3). Section 5050, Welfare & Institutions Code

(Appendix A infra, p. A-6) requires a physician's certificate dated not more than 3 days prior to presentation of the petition and filed with the court, certifying that he has examined the person and is of the opinion that the person is mentally ill .... No such preconfinement examination was ever made; no such certificate was issued or filed. The arrest order (R. 11) by a state judge was not legal in any sense, but was a clearly arbitrary order in violation of the Fourth Amendment, not on oath, but on hearsay. Such special proceedings are in derogation of the common law, governed strictly by statute, and personal observation under §5050.3 Welfare & Institutions Code, (Appendix A infra, p. A-8), plus the officer or physician's written certification that the person is mentally ill and because of his illness is likely to injure himself or others if not immediately hospitalized. The state court's jurisdiction of all proceedings was lost on March 8, 1961 (R. 6, lines 7-17) authority In re Los Angeles County Pioneer Society, 217 F.2d 190, 194, citing Supreme Court decisions. Also cf. Ex parte Virginia, 100 US 339, 346-347, United States v. Guest, 383 US 745, United States v. Price, 383 US 787. The 1965 and 1967 cases of Haldane v. Chagnon et al are dissimilar as to parties and facts, were never determined on the merits. See Pierson v. Ray, 386 US 547, 18 L.Ed.2d 288, April 11, 1967 (both opinions).

The respondents were not engaged in judicial acts, but acts in violation of 18 USC 241, 242 (Appendix A infra, pp. A-4, A-5).

Death claimed petitioner's attorney shortly after March 8, 1961; appointment of capable counsel is respectfully requested authority United States v. Madden, 352 F.2d 792 (1), the circumstances being exceptional, said attorney to be paid pursuant Sprague v. Ticonic National Bank, 307 US 161, 167, the legal liability being strict and absolute. Cf. Bottone v. Lindsley, 170 F.2d 705 (7); Kennedy v. Mendoza-Martinez, 372 US 144, 145.

The Constitution of the United States is the real proponent before this Court.

Void "petition" (R. 10-15 inclusive) charged no criminal or civil offense, no contempt direct or indirect, no scintilla of evidence to constitute any special proceeding known to the law.

> "The public welfare demands that the agencies of public justice be not so impotent that they must always be mute and helpless victims of deception and fraud."
>
> Hazel-Atlas Co. v. Hartford Co., 322 US 238, 246;

Root Refining Co. v. Universal Oil Products,
169 F.2d 514, 541.

CONCLUSION

For the foregoing reasons, this petition for a Writ of Certiorari should be granted.

Respectfully submitted,

ELDON O. HALDANE

Petitioner Pro Se

Dated: January 31, 1968